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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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05/21/2003

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT PAPER NUMBER

3727

DATE MAILED: 05/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,115

Applicant(s)

DEVOLENTINE ET AL.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/6/02(pre-amdt).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ :
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "three-way fastener" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4-7 and 10-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not contain an adequate written description of the "three-way fastener". On page 7, the specification states that the "three-way fastener" could be a curtain fastener or a locking snap. There are many different curtain fasteners and locking snaps and therefore this

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statement offers no clarity as to the structure of these fasteners. In addition, as there are only two mating fasteners(one on the belt and one on each container) it is confusing as to why these fasteners are "three-way fasteners".

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-7 and 10-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are rejected as the term "three-way fastener" is vague and indefinite. It is unclear what this term encompasses. See the above paragraph. For the purposes of formulating a rejection on the merits, these fasteners are considered to be a "locking snap fastener" as this appears to be applicant's intent.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7, 14/7-22/7, and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner (US 5,230,452).

Wagner teaches a belt (11) having a first portion of the releasable closure element(fastener) that are male members (14, 15) to engage with a second portion of

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the releasable closure element that are female members (19, 20) on various different containers (16, 16a, 34, 42, 46) to hold the containers to the belt in any desired location on the belt. To the degree that applicant's claims are understood with respect to "three-way fastener", the releasable closure element (14, 15, 19, 20) are locking snap fasteners.

With respect to claims 7 and 13, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Wagner which is capable of being used in the intended manner, i.e., to hold any desired article including cell phones, paper, pagers, pens, pencils, money, keys, etc. (see M.P.E.P. 2111).

With respect to claims 14-16, Wagner teaches closure flaps (41, 43, 47) to close selective containers.

With respect to claims 18-19 and 25-26, as the snap elements (14, 15) are on the outside surface of the belt, the containers may be attached/detached with the belt being on a user.

With respect to claims 21-22, the access slot is considered to be the opening of the container which allows access to any of the containers.

8. Claims 1, 8-13 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Trumpower III. (US 4,747,527).

Trumpower III. teaches a belt (10) having a first portion of the releasable closure element comprising female members (32) to engage with second portion of the releasable closure element comprising male members (30) to hold containers (24) to

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the belt. To the degree that applicant's claims are understood with respect to "three-way fastener", the releasable closure element (30, 32) are locking snap fasteners.

With respect to claim 13, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Trumpower III. which is capable of being used in the intended manner, i.e., to hold any desired article including cell phones, paper, pagers, pens, pencils, money, keys, etc. (see M.P.E.P. 2111).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8-13 and 14/13-22/13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 5,230,452).

Wagner discloses the claimed invention except for male elements of the releasable closure element being on the belt and the female elements being on the containers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the belt with the female elements and the containers with the male elements of the releasable closure element, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

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11. Claims 14/13-22/13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trumpower III. (US 4,747,527) in view of Wagner (US 5,230,452).

Trumpower III. teaches everything except for the container having a closure flap.

Wagner teaches a similar belt having detachable containers wherein the containers have closure flaps (41, 43, 47) to ensure that the contents of these containers are securely held within them. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a closure flap as taught by Wagner on the containers of Trumpower to ensure that the contents of the containers are securely held inside.

With respect to claims 18-19, as the snap elements (30,32) are on the outside surface of the belt, the containers may be attached/detached with the belt being on a user.

With respect to claims 21-22, the access slot is considered to be the opening of the container which allows access to any of the containers.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lewis, Munoz, Sicotte et al., Cummins, Perkins, Russell et al., Victor and Stocke et al. teach belts with detachable containers similar to what applicant is claiming.

Elliot and Moor teach access slots through the containers to allow headphones to connect with the electrical device inside the container.

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Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

| | |
|-----------------------------|----------------|
| Allowed Files & Publication | (703) 305-8322 |
| Assignment Branch | (703) 308-9287 |

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Nathan J. Newhouse
Primary Examiner
Art Unit 3727

May 19, 2003